

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

DAVID CONKLIN #640752

§

VS.

§

CIVIL ACTION NO. 6:11CV221

MANAGEMENT & TRAINING
CORPORATION, ET AL

§

ORDER OF DISMISSAL

The above-entitled and numbered civil action was heretofore referred to United States Magistrate Judge Judith K. Guthrie. The Report and Recommendation of the Magistrate Judge, which contains proposed findings of fact and recommendations for the disposition of such action, concludes that this civil rights action should be dismissed without prejudice for Plaintiff's failure to exhaust his administrative remedies. Plaintiff has filed written objections (docket entry #13). In his objections, he essentially repeats the allegations of his complaint and further admits that he did not exhaust his remedies by filing a Step 2 grievance procedure, which he had originally admitted on the face of his complaint. Such an admission is proper grounds for dismissal, as the Magistrate Judge recommended. *Carbe v. Lappin*, 492 F.3d 325, 328 (5th Cir. 2007) (district court properly dismissed § 1983 complaint when failure to exhaust was clear on the face of the complaint). Plaintiff now argues that Management & Training Corp. and the Texas Department of Criminal Justice in general are "well known" for not complying with constitutional requirements, as in the adequacy of a law library. He also asserts that Management & Training Corp. evades responding to inmates' grievances. Nonetheless, he offers nothing but conclusory allegations in support of these contentions and otherwise does not directly address the basis for dismissal recommended by the Magistrate Judge. "In § 1983 cases, our Court requires that the 'claimant . . . state specific facts, not

merely conclusory allegations.”” See *Brinkmann v. Johnston*, 793 F.2d 111, 113 (5th Cir. 1986) (per curiam) (quoting *Hale v. Harney*, 786 F.2d 688, 690 (5th Cir. 1986)). Plaintiff’s objections are without merit and will be overruled.

The Court has conducted a careful *de novo* review of the pleadings in this case, the Report of the Magistrate Judge, the Plaintiff’s objections thereto, and all other documents, and records in the case. Upon such *de novo* review, the Court has concluded that the Report of the Magistrate Judge is correct and that the Plaintiff’s objections are without merit. It is accordingly

ORDERED that Plaintiff’s objections are **OVERRULED** and the Report of the Magistrate Judge is **ADOPTED** as the opinion of the District Court. It is further

ORDERED that the above-styled civil case be and hereby is **DISMISSED** without prejudice for Plaintiff’s failure to exhaust his administrative remedies. It is finally

ORDERED that any and all other motions that may be pending in this civil action are hereby **DENIED**.

So **ORDERED** and **SIGNED** this 9th day of August, 2011.

A handwritten signature in black ink, appearing to read 'Leonard Davis', written over a horizontal line.

LEONARD DAVIS
UNITED STATES DISTRICT JUDGE